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Dated: September 2, 2009

Signature: Donna Forbit (Donna Forbit)

Docket No.: 66729/P032US/10614704
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Roy Schoenberg

Application No.: 10/726,423 Confirmation No.: 5827

Filed: December 3, 2003 Art Unit: 3686

For: BRIDGED PATIENT/PROVIDER CENTRIC METHOD AND SYSTEM Examiner: S. Rangrej

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Appellant requests review of the rejections presented in the Final Office Action dated August 14, 2009 for the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reason(s) stated below.

REASONS FOR REQUESTED PRE-APPEAL BRIEF REVIEW

Claims 1-5 and 7-40 are pending in the present application. All claims stand rejected under 35 U.S.C. §102(e) as being unpatentable over U.S. Patent No. 6,941,271 to Soong (hereinafter "*Soong*"). Appellant respectfully submits that the outstanding claim rejections are improper, and thus requests pre-appeal brief review of the rejected claims in light of the remarks presented herein.

REMARKS

Soong fails to teach various claim limitations, as detailed below.

A. Receiving and Storing Access Keys

Independent claim 1 recites, in part, "receiving, by a key organization system operable on a computer processor, a first access key …; receiving, by said key organization system, a second

access key …; storing the first and second access keys in a centralized key repository that is communicatively accessible by said key organization system" (emphasis added). **Independent claim 12** recites "receiving, by the key organization system from a first patient using a client computer, a first access key …; receiving, by the key organization system from a second patient using a second client computer, a second access key …; storing, by said key organization system, the first and second access keys and said association in a centralized key repository" (emphasis added). **Independent claim 35** recites "receive, from a patient at a key organization system, a first access key …; receive, from said patient at said key organization system, a second access key …; store the first and second access keys in a centralized key repository" (emphasis added). **Independent claim 36** recites "a key organization system to: store a plurality of provider-associated access keys on a centralized key repository, wherein said plurality of provider-associated access keys comprise a first access key that grants a patient-defined level of access to the first set of medical records and a second access key that grants a patient-defined level of access to the second set of medical records" (emphasis added). *Soong* fails to teach at least the above-emphasized limitations of claims 1, 12, 35, and 36.

The *Office Action* likens *Soong*'s password to the claimed "access keys." *Office Action* at 2. However, *Soong* does not teach a key organization system that receives and stores access keys. *Soong*'s distribution of passwords does not teach the limitation. Specifically, *Soong* teaches that the patient can provide the password to others. *Soong* at col. 6, lns. 50-54. However, in *Soong*, the distributed passwords are not taught as stored in any intermediary system (e.g. a key organization system). Rather, after the passwords are distributed in *Soong*, it becomes the responsibility of the individual recipients of such passwords to keep track of the passwords and to input the passwords when accessing the medical records. *Soong* at col. 6, lns. 49-59. As such, *Soong* does not teach a key organization system receiving and storing access keys. Therefore the rejection of claims 1, 12, 35, and 36 should be withdrawn for at least the above reasons.

B. Associating Access Keys

Claim 1 recites "associating, by said key organization system, said first and second access keys with said medical service provider". **Claim 12** recites "associating, by said key organization system, said first and second access keys to said medical service provider … storing, by said key organization system, the first and second access keys and said association in a centralized key repository". **Claim 28** recites "a first access key associated with a medical service provider that grants to said medical service provider a patient-defined level of access to the first set of medical

records … [and] a second access key associated with said medical service provider that grants to said medical service provider a patient-defined level of access to the second set of medical records". **Claim 35** recites "a first access key associated with a first medical service provider that grants to said first medical service provider a first patient-defined level of access to a first set of medical records … [and] a second access key associated with a second medical service provider that grants to said second medical service provider a second patient-defined level of access to said first set of medical records". **Claim 36** recites "a plurality of provider-associated access keys . . . ." *Soong* fails to teach at least the above limitations, as discussed below.

Soong's passwords are not associated with a medical provider. In *Soong*, the patient merely provides his password to whomever (e.g. family members, friends, health care professionals), and any of those individuals use that same patient password to access the medical records. *Soong* at col. 6, lns. 5-6, 50-54. Thus, while the password may define certain access rights that are presumed by the system as being granted to the individual inputting the password, the system does not associate the password with any medical service provider. For instance, the system makes no determination of whether a given password has been granted to a particular medical service provider (or other user) who is requesting access to the medical records, but instead merely requires the requestor to input the password. Therefore the rejection of claims 1, 12, 28, 35, and 36 should be withdrawn for at least the above reasons.

C. Receiving and Associating Different Access Keys from the Same Patient with Different Providers

Claim 34 recites "receive, at said key organization system, a first access key that grants to a first medical service provider a first patient-defined level of access to a first set of medical records of a corresponding patient; [and] receive, at said key organization system, a second access key that grants to a second medical service provider a second patient-defined level of access to said first set of medical records of said corresponding patient" (emphasis added). **Claim 35** recites "receive, from a patient at a key organization system, a first access key associated with a first medical service provider that grants to said first medical service provider a first patient-defined level of access to a first set of medical records; [and] receive, from said patient at said key organization system, a second access key associated with a second medical service provider that grants to said second medical service provider a second patient-defined level of access to said first set of medical records" (emphasis added). *Soong* fails to teach the above limitations of claims 34 and 35.

Just as *Soong* does not teach a key organization system receiving or associating an access key with a particular provider as explained above, *Soong* does not teach a key organization system receiving or associating different access keys from the same patient which are associated with different providers. Therefore, the rejection of claims 34 and 35 should be withdrawn.

D. The Key Organization System Uses the Access Keys to Control Access

Claim 19 recites "responsive to a request received from a medical service provider to access one of said sets of medical records, retrieving, by a key organization system, from said centralized key repository a determined one of said access keys that is associated with said medical service provider and which corresponds to said requested set of medical records, and controlling, by said key organization system, access by said medical service provider to said requested set of medical records using the retrieved access key" (emphasis added). **Claim 28** recites "wherein the key organization system is configured to, responsive to receipt of a request from the medical service provider to access one of said first and second set of medical records, retrieve a determined one of the first and second access keys from the centralized key repository and use the retrieved access key to control access by said medical service provider to said requested set of medical records" (emphasis added). **Claim 34** recites "responsive to a request received from one of said first and second medical service providers to access said first set of medical records, retrieve from said centralized key repository a determined one of said access keys that is associated with said requesting medical service provider, and using the retrieved access key to grant to the requesting medical service provider the corresponding patient-defined level of access to said first set of medical records" (emphasis added). **Claim 36** recites "responsive to a received request from a provider to access one of said first and second sets of medical records, retrieve from said centralized key repository a respective one of said first and second access keys that grants the requesting provider a patient-defined level of access to the requested one of said first and second sets of medical records; and use said retrieved access key to grant said requesting provider the corresponding patient-defined level of access to the requested one of said first and second sets of medical records" (emphasis added).

Soong does not teach the above limitations of claims 19, 28, 34, and 36. Rather than retrieving and using a key from a centralized key repository, *Soong* requires a requesting user (e.g., physician) to input a password that is used for controlling access to the medical records. Therefore, the rejection of claims 19, 28, 34, and 36 should be withdrawn for this further reason.

E. Provider Accesses Medical Records without Inputting the Access Key

Independent claim 12 recites "receiving, by said key organization system, a request from said medical service provider to access said first or second set of medical records and, responsive to said request, controlling access to said requested set of medical records using said first or second access key, wherein input of said first or second access key from said medical service provider is not required by said key organization system" (emphasis added). **Claim 35** recites "receive a request from said first medical service provider to access said first set of medical records; and retrieve, responsive to said request, said first access key from said centralized key repository to provide said first medical service provider with access to said first set of medical records wherein input of said first access key from said first medical service provider is not required by said key organization system" (emphasis added).

Soong does not allow a service provider to access medical records without first inputting a password. *Soong* at col. 6, lns. 20-25. Rather, *Soong* requires that the patient's password be entered by the individual person requesting the medical records before access to the records will be provided. *Soong* at col. 6, lns. 20-25. As such, *Soong* does not teach the above limitations of claims 12 and 35, and thus the rejection of these claims should be withdrawn for this further reason.

Conclusion

Therefore, the outstanding claim rejections should be overturned as improper. Appellant thus respectfully requests that the panel reverse the outstanding rejection of claims. If a fee is due with this response, please charge our Deposit Account No. 50-3948 under Order No. 66729/P032US/10614704 from which the undersigned is authorized to draw.

Dated: September 2, 2009

Respectfully submitted,

By _____

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